



RESPA ROUNDUP

The first issue of the RESPA Roundup generated many positive comments. Do you have a subject that you would like to see us address in a future issue of RESPA Roundup? Send us an email!

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The Good Faith Estimate

I. VA Circular

On July 30 and August 6, 2010, the VA issued <u>Circulars</u> (<u>26-10-9</u> and <u>26-10-9-Change 1</u>) on the itemization of credits and title service charges on VA loans. Pursuant to the Circulars, loan applications for VA insured mortgage loans taken on or after October 1, 2010, must include an attachment to the HUD-1 itemizing (a) seller, lender, mortgage broker, or real estate agent/broker credits and (b) title services charges. Lenders are encouraged to combine any itemizations of credits and title charges with the VA origination statement required by <u>Circular 26-10-1</u>.

II. Payments to Subordinate Lien Holders on HUD-1?

With the volume of short sale transactions, the Office has received a number of questions concerning whether all payments made to subordinate lien holders to release liens must be disclosed on the HUD-1/1A Settlement Statement.

In summary, yes, all payments made in connection with a RESPA-covered transaction must be disclosed on the HUD-1/1A Settlement Statement.

This answer is based on a number of provisions in the statute and regulations, including Section 4 of RESPA which requires the use of a standard form for the statement of settlement costs. This form, the HUD-1/1A, must "conspicuously and clearly itemize all charges imposed" upon the borrower and the seller "in connection with the settlement...." 12 USC § 2603. Further, the regulations, at 24 CFR § 3500.8, require the use of the HUD-1/1A settlement statement in RESPA-covered transactions. Section 3500.8(b) requires that "each third party charge paid by the borrower and seller" must be itemized on

LINKS

The Office of RESPA and ILS

RESPA FAQs

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<u>GFE</u> Instructions

HUD-1

HUD-1A

HUD-1 Instructions

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Circulars/News

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the HUD-1/1A and that the HUD-1/1A must be completed in accordance with the instructions in <u>Appendix A</u> of the regulations. Both § 3500.8(b) and Appendix A require that the "actual charges paid by the borrower and the seller" be shown on the HUD-1/1A.

The instructions for particular lines on the HUD-1 provide additional guidance about how to disclose payments to subordinate lien holders.

- Lines 504 and 505 are to be used for the amount of any first or second loans which will be paid as part of the settlement. Accordingly, the instructions are explicit that the payoff for the second loan is to appear as an item on Line 505 on the HUD-1.
- For payments to the subordinate lien holder, any amounts paid must appear inside the column on line 505, and other amounts paid by or on behalf of the seller must appear as P.O.C. outside of the column, either on Line 505 or on Lines 506-509.
- Finally, with respect to the buyer, Lines 204-209 are to be used for items, except for earnest money, that are paid by the buyer for financing arrangements other than new or assumed mortgages. For payments to the subordinate lien holder by or on behalf of the buyer, Lines 204-209 may be used to disclose, outside of the column, any amounts paid outside of closing in connection with the second mortgage payoff. The instructions also provide that such amounts entered on Lines 204-209 should also be entered (outside of the columns) on Lines 506-509.

Contact Us

To contact us with questions on RESPA, send an email to hsg-respa@hud.gov or call us at 202.708.0502.

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